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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/441,628	11/16/99	PETRAK	G 39661.830001

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EXAMINER

LUONG, V

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 07/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/441,628

Applicant(s)

PETRAK

Examiner

Vinh Luong

Group Art Unit

3682



☒ Responsive to communication(s) filed on 5/11/00

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-5 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-5 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Vinh T. Luong
Primary Examiner

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Applicant's election without traverse of the species of Figs. 1-15 in Paper No. 6 is acknowledged.
2. No claim is withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 6.
3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. *It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.*

4. The abstract of the disclosure is objected to because the abstract uses the implied phrase such as "the present invention," and the legal phraseology "means." Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because of the following informalities: the disclosure contains spelling or typographical errors, *e.g.*, "break assemblies" in line 5 on page 13 of the specification should have been "brake assemblies." Appropriate correction is required.
6. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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7. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 claims, *inter alia*, “tensioner means (98) attached in a tension force transmitting relationship with the front cable strand (52) and the rear cable strand (66).” However, Figs. 1-15 show that the front cable 52 is *neither* connected to the left rear cable 66 nor the equalizer 60. The front cable 52 is *merely* connected to the right rear cable 68 as seen in Figs. 1-4. Therefore, the movement of an end 54 of the front cable 52 merely affects the movement of an end 102 of the connector clip 64, consequently, the tension force of the front cable 52 is merely transmitted to the right rear cable 68. In summary, the tension force cannot be transmitted from the front cable 52 to the left rear cable 66 due to the fact that the front cable 52 is *not* connected to the left rear cable 66 and the equalizer 60.

It is unclear as to how applicant makes/uses the tensioner means 98 to transmit the tension force from the front cable 52 to the left rear cable 66 as claimed when the drawings show that the front cable 52 is *neither* connected to the left rear cable 66 nor the equalizer 60.

8. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the *elected* invention.

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Claim 5 calls for the tensioner (198, 186) positioned on the brake actuation lever (192) in the nonelected species of Figs. 26-31.

9. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether a confusing variety of terms such as "a rear cable strand" in claim 1, and "a rear left cable strand" and "a rear right cable strand" in claim 3 refer to the same or different things. See M.P.E.P. 608.01(o). Applicant is respectfully urged to identify each claimed element with reference to Figs. 1-15.

The recitations such as "tensioner means attached in a tension force transmitting relationship with the front cable strand and the rear cable strand" in claim 1 is imprecise since Figs. 1-15 show that the front cable 52 is neither connected to the left rear cable 66 nor the equalizer 60, therefore, the tension force cannot be transmitted from the front cable 52 to the left rear cable 66.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Dussault (U.S. Patent No. 4,569,112).

Regarding claim 1, Dussault's Figs. 1-12 teach a park cable brake system comprising:

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a brake cable actuation lever 5, 175;

a connector clip 161 (Fig. 10) having first and second ends, and including a shear member 165, the shear member 165 inherently having a shear failure force and positioned between the first and second ends;

a brake assembly 13;

a front cable strand 7, 1' having first and second end, the first end attached to the lever 5, 175 and the second end engaging the shear member 165 (Fig. 10) on the connector clip 161;

a rear cable strand 11, 21, 153, 157, etc. having first and second ends, the first end attached to the second end of the connector clip 161, and the second end attached to the rear brake assembly 13; and

tensioner means 173 (Figs. 10 and 11) attached in a tension force transmitting relationship with the front cable strand 7 and the rear cable strand 11, 21, 153, 157, etc.

Claim 1 and other claims below are anticipated by Dussault. On the one hand, when one applies the tension to the front and rear cable strands of Dussault by the tensioner means, the tensioner means inherently creates at least the shear failure force to cause the second end of the front cable to break the shear member and move to the first end of the clip. Note that virtually anything will break if enough force or pressure is applied to it. See "flexibility" in *Fredman v. Harris-Hub Co., Inc.*, 163 U.S.P.Q. 397 (DC 1969). On the other hand, the functional limitations of a claim may not be given patentable weight where those limitations are inherent in a prior art reference. *In re Schreiber*, 44 U.S.P.Q.2d 1429 (CAFC 1997).

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Regarding claim 2, see line 39 *et seq.*, column 1, claims 1 and 2, and *In re Schreiber, supra*.

Regarding claim 3, see a rear left brake assembly 13 (Figs. 1 and 9), a rear right brake assembly 13, an equalizer structure 151, 9, a rear left cable strand 153 attached to and extending between the equalizer 151, 9 and the rear left brake assembly 13, a rear right cable strand 157 attached to and extending between the equalizer 151, 9 and the rear right brake assembly 130, wherein the actuation of the tensioner means 173 (Figs. 9-12) tensions the front and rear cables.

CFR 1.111(b) and MPEP § 707.07(a).

Regarding claim 4, the tensioner 173 is positioned on the equalizer 151.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dege (Fig. 1).

13. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-7687**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-7687) on _____
(Date)

Typed or printed name of person signing this certificate:

(Signature)

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If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Luong whose telephone number is (703) 308-3221. The examiner can normally be reached on Monday-Thursday from 7:30 AM EST to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. The fax phone number for this Group is (703) 305-7687. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Luong

July 5, 2000



Vinh T. Luong
Primary Examiner